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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,133	12/02/2003	Gene Squitieri	22278	4738
20551	7590	02/21/2006	EXAMINER	
THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 200 SANDY, UT 84070			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

my

Office Action Summary	Application No. 10/727,133	Applicant(s) SQUITIERI, GENE	
	Examiner Benjamin H. Layno	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-17 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments with respect to claims 1-6 and 10-17 have been considered but are moot in view of a new ground(s) of rejection made in view of Squitieri Patent No. 6,070,872 (Squitieri 872'). Furthermore the allowability of claims 7-9 has been withdrawn in view of the new ground(s) of rejection made in view of Squitieri 872'.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 13-15 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Squitieri 872'.

The patent to Squitieri 872' discloses a method of playing a casino-type card game of chance. The game comprises a deck of playing cards, Fig. 4A and Fig. 4B, col. 4, lines 28-33, and a playing surface 10 for placing wagers. The playing surface comprises three designated areas 36 for placing three unexposed cards dealt from the deck. The playing surface also includes a first wagering area 40, Fig. 5, identifying card content base on the numerical sum value of two cards to be revealed of the at least three unexposed cards, wherein the first wagering area identifying card content based on possible wagers that the at least two card revealed will have a sum based on

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summing card values of the at least two cards revealed including possible wagers that the sum value will be a single integers between two and ten, "10 OR LESS" 46, and between twelve through twenty, "12 OR MORE" 48. Play of the first wager ends if the sum value of the two cards revealed is equal to eleven, col. 5, lines 64-65. The first wager area also includes identifying card content based on possible wagers that the at least two cards revealed will be any pair including Ace through 10, 70, Fig. 5. The playing surface also includes a second wagering area 80 "COMBO", Fig. 2, identifying card content based on possible wagers for numerical value combinations restricted to at least two face cards revealed in the at least three cards to be revealed. The playing surface also includes a third wager area, which is dependent upon the revealing of at least one face card being revealed during the revealing of the at least two cards, until all of the at least three cards are revealed, 82 "LAST CHANCE CARD, STRAIGHT UP", Fig. 2. Squitieri 872' further comprises a die, Fig. 3. Each face of the die has at least two independent symbols which correspond to at least two of the three designated areas, wherein the revealing of the at least two cards corresponds with the at least two independent symbols exposed on the at least one die rolled, col. 5, lines 29-35. The players are provided an opportunity to place a wager on any of the three wager areas, and the players are paid any winning wagers.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squitieri 872' as applied to claim 1 above, and further in view of Smith.

The patent to Smith teaches that it is known in casino-type card games of chance wherein three cards are dealt to three designated areas 13a, 13c, to use a conventional fifty-two card deck. Smith also teaches that it is known to provide a wagering area 30-38 (e.g. "Any Pair "Flush", "Straight", "3 Of A Kind", "Straight Flush") identifying card content base on the card combination of the three cards dealt from the conventional fifty-two card deck. In view of such teaching it would have been obvious to replace Squitieri 872' card deck (twenty cards, Ace – 10) with a conventional fifty-two card deck. It would have been also obvious to incorporate a wagering area based on three face card combinations, such as "Any Pair", "Flush", "Straight", "3 Of A Kind", "Straight Flush", to Squitieri 872' second wager area. This modification to Squitieri 872' would have provide more betting choices for player to place their wagers, giving the players the perception of having a greater chance of winning, thus making Squitieri 872' game more attractive. Note, the scope of "Any Pair" includes "king-king" and "queen-queen", the scope of "Straight Flush" includes "king-queen-jack (same suit)", the scope of "Straight" includes "king-queen-jack (different suit)", the scope of "3 Of A Kind" includes "king-king-king", "queen-queen-queen" and "jack-jack-jack".

In regard to claim 17, in view of Smith teaching of replacing Squitieri 872' card deck (twenty cards, Ace – 10) with a conventional fifty-two card deck, it would have

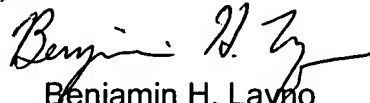
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been also obvious to modify Squitieri 872' third wager area 82 by incorporating possible wagers that the remaining unexposed card will reveal a specific card of jack, queen and king. This modification would have made Squitieri 872' game more attractive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl